

**Recommendation from “Staff Member” of
Burlington County Library System,
In Favor of Removing Revolutionary Voices
from the Library's Collection**

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SLIS S640 – Seminar in Intellectual Freedom

Dr. Robin Moeller

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19 April 2010

Director Gail Sweet
Administrative Offices
Burlington County Library System
5 Pioneer Boulevard
Westampton, NJ 08060

Director Sweet:

Thank you for the opportunity to serve on the committee of staff members charged with the task of considering Beverly Marinelli's formal Request for Reconsideration of the book *Revolutionary Voices: A Multicultural Queer Youth Anthology* and providing you with my recommendation on whether this book should remain in Burlington County Library System's collection.

BCLS is a strong advocate for the First Amendment rights of our patrons. However, as we at BCLS are well-aware, the First Amendment provides no legal protection to obscenity or to child pornography (or material that visually depicts sexual conduct by minors, even if not obscene). As we are also aware, among the other types of speech that may not be fully protected by the First Amendment is that which is "harmful to minors" (in a legal sense) and "virtual child pornography".

Ms. Marinelli has expressed to the Burlington County Library System (as well as to the Rancocas Valley Regional High School in nearby Mt. Holly) her concerns that

Revolutionary Voices is obscene, inappropriate to minors, and contains child pornography and has asked that the library remove this title from our Young Adult collection and our collection at large¹.

At the heart of Ms. Marinelli's objections to *Revolutionary Voices* is the question of whether this anthology of words and artwork created by and for young people who self-identify their sexuality as lesbian, gay, bi-sexual, and/or transgender is possibly legally obscene or contains child pornography, and if so, whether this possibility is compelling enough for BCLS to consider removing the book from its collection.

I think we can agree that BCLS, in the name of free speech, strives to not discriminate against controversial ideas. BCLS's own mission statement expresses our commitment to act on behalf of the diverse community of Burlington County as a "gateway and guide to ideas, information, and entertainment." BCLS's collections, services, and resources are some of the means by which we strive to meet this goal. In short, BCLS is committed to creating and maintaining a balanced collection.

On the whole, our collection includes extensive and relevant media formats appropriate for this day-and-age of rapidly changing technology. For instance, our collection includes traditional print formats such as books and magazines, audiovisual formats such as DVD's and CD's, and electronic media formats such as databases and e-books.

The process of deciding which materials to purchase is not one that BCLS takes lightly. In order to minimize the influence of personal bias and utilize BCLS's funds most

¹ As documented in the accompanying "process paper" for this project, I was unable to confirm whether *Revolutionary Voices* was part of BCLS's Young Adult collection, however, I believe this is a reasonable assumption based on the way WorldCat.org indicates it is cataloged for many public libraries.

effectively, our staff relies upon the library's Collection Development Policy, which is informed by BCLS's mission. There is a wide range of criteria taken into account when selecting materials, including the literary, artistic, educational, informational, and recreational value of an item as a whole. We consider the item's overall accuracy, timeliness, professional journal reviews, and the actual or potential popularity. Critically, we consider the value the item will add to our collection as a whole; that is, its relations to other materials in our collection in order to provide the diverse community of Burlington County with the widest possible range of ideas and points of view.

When considering which materials to weed or deselect, our staff again bases each decision upon our Collection Development Policy. This includes instances in which community members believe that BCLS has made a mistake in selecting an item or that an item that BCLS may have been deemed appropriate at the time of selection has become inappropriate over time. When such a concern comes to our attention, we again return to our Collection Development Policy's guidelines for fairly considering these concerns.

When Ms. Marinelli first verbally related her concerns about *Revolutionary Voices* to Library Commissioner Patrick Delany, BCLS initiated the review process set forth in our Collection Development Policy:

Any patron may request that the library review a decision to select or withdraw an item. Those who wish reconsideration of such a decision should complete the Request for Reconsideration Form (Appendix E). A committee of staff selectors as designated by the Library Director will review the material in question. Committee members will make their recommendations to the Director who will make the final decision concerning the material. The Director will notify the person requesting the reconsideration of the decision. If that person is not satisfied with the action taken, an appeal may be made to the Library Commission.

In order to educate Ms. Marinelli about the process by which BCLS decides to purchase materials for our collection, she was provided with hard-copies of BCLS's Collection Development Policy, including our provision on "Controversial Materials," and the Request for Reconsideration Form necessary for BCLS to proceed any further with investigating the matter.

The materials provided to Ms. Marinelli informed her that BCLS strongly believes we have a responsibility to provide a comprehensive collection that gives free access of information to individuals that hold wide range of ideas and viewpoints. Further, she was advised that we realize that, as members of a free and pluralistic society, this means that some materials in our collection may be considered valuable assets to some community members while other members of the community will find some words or illustrations contained in the materials to be controversial or disagreeable (and therefore deficits to our collection). Specific to *Revolutionary Voices*, Ms. Marinelli was informed by our policy that we believe that:

Responsibility for the reading, listening or viewing choices of children or adolescents rests entirely with the parents or legal guardians. Selection of adult material will not be inhibited by the possibility that the material may be used by children or adolescents.

As evidenced by the Request for Reconsideration form submitted by Ms. Marinelli (Exhibit 1² to this letter), Ms. Marinelli alleges that *Revolutionary Voices* depicts the sexualization of minors in various textual passages. Ms. Marinelli specifically cited a December 4, 2009 article by Kevin Holt (RIGHTNETWORK) entitled, "Breaking:

2 As documented in the accompanying "process paper" for this project, Marinelli never completed a Request for Reconsideration form for the BCLS. Exhibit 1 is a fictional depiction of what Marinelli's Request for Reconsideration might have said.

Obama's 'Safe Schools Czar' Is Promoting Child Porn in the Classroom—Kevin Jennings and the GLSEN Reading List" as providing passages from the book that are of concern to her.

When looking at the book as a whole, I believe it is important to remember that these textual passages were written by young people for young people. By way of background, the editor, Amy Sonnie collected the works between 1995 and 2000 (the year that the book was eventually published as the anthology, *Revolutionary Voices*). The age of each of the 54 writers/artists is provided, however, there is no indication of whether that age represents their ages at the time of the book's publication or at the time the submission was created (some of which could have been created prior to 1995). Nonetheless, the ages provided range from 15 to 26, with the average age being 20.54 and the median age being 20.5.

When reading the textual passages in question within the larger context of the book, the writers are providing non-fiction accounts of events that occurred when they were young adults, or minors if you will. The writers come from a wide range of geographic, ethnic, and economic backgrounds. The subject matters of these textual passages include children masturbating, teenage prostitution, and young transgender adults who fantasize about changing their genitals to conform with the gender they identify with.

While the sexual nature of these passages may be shocking to some young adult and adult readers, I do not believe these textual passages are graphic enough to label as "patently offensive sexual conduct" that appeals to "a prurient interest." Further, to say that the book, as a whole, lacks "serious artistic, literary, political, or scientific value"

can be disputed by the fact that *Revolutionary Voices* has been well-received by credible reviewing publications such as *School Library Journal* and *The Booklist*. Therefore, I doubt that a Court applying the *Miller v. California* (1973) “three-prong test” would find *Revolutionary Voices* obscene based upon its overall textual content.

However, I do believe that BCLS should strongly consider the objection raised by Ms. Marinelli regarding a reproduced etching on page 103 (Exhibit 2). As I will argue below, I believe a Court could reasonably find that this particular illustration may fall under what has come to be known as “virtual child pornography” in the United States pursuant to the PROTECT Act of 2003, and may not, therefore, be protected under the First Amendment.

The artwork in question was created as part of a series by Daryl Vocat, an artist from Saskatchewan, Canada. It is comprised of two ambiguous figures, paired with a clear depiction of an adult male Boy Scout leader standing behind and very close to a young Boy Scout. The editor of *Revolutionary Voices*, Amy Sonnie, apparently sent an e-mail to *The Philadelphia Inquirer* stating that the ambiguous figures are a manipulated stock image of one man hiking a football to another. However, for a viewer unaware of this information and given the contextual clues of the more clearly depicted figures, the ambiguous figures could reasonably be interpreted as an adult male scout leader doing “something” behind a young scout boy. The phrase “boy to man” at the top of the etching, coupled with the piece's title, “A Process of Change” also provides contextual clues that the artist has intended this piece, at the very least, to be an allusion to two males having sex, one of which could be a minor. Do these two phrases make any sense if the ambiguous depiction was meant by Daryl Vocat to be interpreted as two

men merely engaging in a football play?

As evidenced by Vocat's own website, the artist has an extensive body of work to pull from (some pieces more overtly sexually graphic than others), and it is unfortunate that this particular etching was chosen for *Revolutionary Voices*. Vocat's website includes numerous writings that imply that he has to be aware interpretive nature of the particular piece, "Process of Change." The artist has placed enough graphic and textual cues in this piece that I believe Vocat, himself, would ultimately concede that someone looking at the ambiguous figures has been led by him, as the artist, to be able to reasonably interpret the manipulated graphic of two men engaged in a football play as an older man performing anal sex on a young boy, which could constitute "virtual child pornography".

When Congress passed the Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act (PROTECT Act) of 2003, this was done "as a response to the Supreme Court's 2002 decision in *Ashcroft v. Free Speech Coalition*, which held unconstitutionally overbroad two provisions of the Child Pornography Prevention Act of 1996 (CPPA) relating to what material could permissibly be described as child pornography" (Kornegay).

As a result of Title IV of the PROTECT Act and the amendment of 18 U.S.C. § 2259 to reflect the provisions of the Act, BCLS must consider *a class of child pornography which need not involve the use of actual children* (or, in the terms provided by 18 U.S.C. § 2259 a "photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, where such visual depiction is, or appears to be, of a minor engaging in sexually explicit

conduct"). J.N. Kornegay points out that:

...the provisions for depictions of what 'appears to be' a minor engaged in certain sexually explicit acts under [the PROTECT Act] require only that the image 'lack... serious literary, artistic, political, or scientific value' rather than be 'obscene' or explicitly spell out the three tests under Miller.

The PROTECT Act's one-prong test established in 2003 applies to a particular kind of child pornography where images are digitally altered to represent minors yet no actual child is used in the pornography (sometimes referred to as "virtual child pornography"). Vocat's piece, "A Process of Change" (as published in 2000 on page 103 of *Revolutionary Voices*) utilizes images that have been altered in such a way that it is reasonable to interpret the piece as depicting "virtual child pornography." Whether Vocat's piece, "A Process of Change," as a whole fails the one-prong test (i.e., "lacks serious literary, artistic, political, or scientific value") is a question that can only be legally determined by a court of law where both sides would present expert witnesses to attempt to prove their case.

Today, as BCLS considers whether a Court might determine Vocat's illustration to be a form of child pornography under the PROTECT Act of 2003, I think it would be prudent to once again consult the library's Collection Development Policy. There are currently multiple copies of *Revolutionary Voices* in BCLS's Young Adult collection. When BCLS purchased this title around the time it was published in 2000³, its selection was determined by weighing multiple factors, including the fact that it played an important role in balancing our collection as it existed at that time. Specifically, in terms of non-fiction materials aimed at young adult readers who are seeking to read about the

³ For the purposes of this assignment, I am assuming that the BCLS purchased the book around this time. However, I have no way of confirming this.

subject of teens who identify as lesbian, gay, bi-sexual, and/or transgender, there are at least numerous examples of alternative titles in our Adult and Young Adult collections, including:

- Cohen, Susan, and Daniel Cohen. *When Someone You Know Is Gay*. New York: M. Evans, 1989.
- Desetta, Al, and Eric Marcus. *Out with It: Gay and Straight Teens Write About Homosexuality*. New York: Youth Communication, 2009.
- Due, Linnea A. *Joining the Tribe: Growing Up Gay and Lesbian in the '90s*. New York: Anchor Books, 1995.
- Gold, Mitchell, and Mindy Drucker. *Crisis: 40 Stories Revealing the Personal, Social, and Religious Pain and Trauma of Growing Up Gay in America*. Austin, TX: Greenleaf Book Group Press, 2008.
- Heron, Ann. *Two Teenagers in Twenty: Writings by Gay and Lesbian Youth*. Boston: Alyson Publications, 1994. Print.
- Huegel, Kelly. *GLBTQ: The Survival Guide for Queer & Questioning Teens*. Minneapolis, MN: Free Spirit Pub, 2003.
- Jennings, Kevin, and Patricia Gottlieb Shapiro. *Always My Child: A Parent's Guide to Understanding Your Gay, Lesbian, Bisexual, Transgendered, or Questioning Son or Daughter*. New York: Simon & Schuster, 2003.
- Pollack, Rachel, and Cheryl Schwartz. *The Journey Out: A Guide for and About Lesbian, Gay and Bisexual Teens*. New York, N.Y: Viking, 1995.
- Read, Kirk. *How I Learned to Snap: A Small-Town Coming-Out and Coming-of-Age Story*. Athens, Ga: Hill Street Press, 2001.
- Rich, Jason. *Growing Up Gay in America: Informative and Practical Advice for Teen Guys Questioning Their Sexuality and Growing Up Gay*. Portland, OR: Franklin Street Books, 2002.
- Rooney, Frances. *Hear Me Out: True Stories of Teens Educating and Confronting Homophobia : a Project of Planned Parenthood of Toronto*. Toronto: Second Story Press, 2004.
- Swisher, Karin, Terry O'Neill, and Bruno Leone. *Teenage Sexuality: Opposing Viewpoints*. San Diego, CA: Greenhaven Press, 1994.

In addition, there are numerous examples of fiction titles in our Young Adult and Adult collections that include characters that are young adults who identify as lesbian, gay, bi-sexual, and/or transgender. When originally purchased by BCLS nearly 10

years ago, and in the days before the PROTECT ACT of 2003, *Revolutionary Voices* was purchased as an asset to the library's overall collection. It could be argued that *Revolutionary Voices* is merely controversial, and by this token BCLS should uphold its Collection Development Policy for Controversial Materials, taking the stance that:

The ultimate decision of what is read is made by the reader. The library can merely provide the alternatives. When a reader deems something controversial or disagreeable, he/she should realize that the selection was made with a different audience in mind.

It could also be argued that while it would take a Court of law to decide whether the inclusion of Daryl Vocat's "A Process of Change" means that *Revolutionary Voices* contains child pornography.

However, it is a fact that Ms. Marinelli's concerns warrant serious consideration.

In all fairness, if BCLS decides to remove *Revolutionary Voices* from our collection, this does not mean that a patron could not request it through Inter-Library Loan services, nor does it mean that a reader seeking similar materials would find themselves empty-handed since we provide numerous alternatives. In addition, BCLS is committed to providing materials for an audience that might be interested in titles similar to *Revolutionary Voices*, and will continue to purchase such titles as they are published and as they meet the guidelines of our Collection Development Policy. It is unfortunate that Amy Sonnie elected to include this particular reproduction of Vocat's work, especially given the fact that Vocat has so many other pieces that could have been used in this book. Given the circumstances, it is my belief that while the initial selection of *Revolutionary Voices* was appropriate at the time, this title has become a detriment to our overall collection.

In short, it is my recommendation that BCLS remove *Revolutionary Voices* from our collection.

Sincerely,

Lisa Wynn
Pemberton Branch
Burlington County Library System
16 Broadway
Browns Mills, NJ 08015

Exhibit 1

BURLINGTON COUNTY LIBRARY SYSTEM
HEADQUARTERS LOCATION 5 PIONEER BOULEVARD
MT. HOLLY, NJ 08060

REQUEST FOR RECONSIDERATION OF LIBRARY MATERIALS

Title Revolutionary Voices ☒ Book ☐ Periodical ☐ Other _____

Author Amy Sonnie (Editor)

Publisher Alyson Books (Los Angeles, CA)

Request initiated by Beverly Marinelli

Address 28 Flemish

City Lumberton State NJ Zip 08048 Telephone (609) 261-3346

DO YOU REPRESENT:
☒ Yourself
☐ An Organization (Name) _____
☐ Other Group (Name) _____

1. To what in the work do you object? (Please be specific. Cite pages. Use other sheet.)
The book is pervasively vulgar, obscene, and inappropriate, especially page 103 which is a particularly explicit illustration of two Boy Scouts watching two men have sex (Child Pornography)

2. Did you read the entire work? Some What parts? I also read about the book on RightNetwork.com (http://bit.ly/hDDfo8).

3. What do you feel might be the result of reading this work? I am not a homophobe but the book promotes the sexualization of children regardless of the sexual orientation.

4. For what age group would you recommend this work? Adults 18 or older

5. What do you believe is the theme of this work? The book promotes the sexualization of children

6. What are the reviews of literary critics concerning this work? The book has been promoted by GLSEN

7. What would you like your library to do about this work?
☐ Do not lend it to my child
☐ Return it to the staff selection committee for reevaluation
☒ Other, Explain This book should not be read by children. Either remove it from the library or prevent children from reading it some other way.

8. In its place, what work(s) would you recommend that would convey as valuable a picture and perspective of the subject treated?
The library has other books in the collection for teenagers who are homosexual
(Link to library's catalog: http://bit.ly/iR2xYB)

Signature _____
 Date 4/11/2010

4/00rdc

NOTE/DISCLAIMER:
THIS
FORM IS A
FICTIONAL
REPRESENTATION.

Beverly Marinelli
did not complete
this form.

This form was
created
by
Lisa Wynn by consulting
resources
as a fictional
supplement
to a paper/project
for a
Library
Science Course
on
Intellectual Freedom.

30 May 2011
Lisa Wynn
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Exhibit 2



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